

MOSER LAW FIRM, PC



Paul A. Pagano

Tel: 917.589.1479

paul.pagano@moserlawfirm.com

January 13, 2021

VIA ECF

The Honorable Andrew L. Carter, Jr., U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007

Re: *Malcolm v. The City of New York*
20-cv-09641(ALC)

Dear Judge Carter:

This firm represents the Plaintiffs in the above-captioned matter. This letter is written with respect to Defendant The City of New York's ("Defendant") January 12, 2021 letter requesting a pre-motion conference seeking permission to file a motion to dismiss the complaint.

On January 12, 2021, Defendant filed a letter with the Court requesting a pre-motion conference seeking permission to file a motion to dismiss the complaint (DE 20). In essence, Defendant's arguments are that: (1) Plaintiffs' FLSA claims are governed by a two-year statute of limitations rather than a three-year statute of limitations due to a purported failure to plead sufficient facts to render plausible the conclusion that Defendant acted willfully; (2) Plaintiffs failed to plead their FLSA claims with specificity; and (3) Plaintiffs failed to adequately plead Plaintiff Malcolm's retaliation claim. At bottom, Defendant claims that Plaintiffs' complaint is insufficiently pled.

While Plaintiffs disagree with Defendant's positions, rather than engage in motion practice, the Plaintiffs are going to exercise their right under FRCP 15 to amend their pleading as a matter of course. Under FRCP 15, Plaintiffs would have until February 2, 2021 to amend the complaint. The undersigned has spoken with counsel for Defendant and she has graciously agreed to extend Plaintiffs' time to file their amended complaint until February 15, 2021.

Respectfully submitted,

MOSER LAW FIRM, P.C.

By:

Paul Pagano

Paul A. Pagano, Esq.
Attorneys for Plaintiffs
5 East Main Street
Huntington, NY 11743
(516) 671-1150